

(2) By any company 50 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote by an electric utility, electric utility holding company, or any combination thereof.

3. Section 292.601 is revised to read as follows:

§ 292.601 Exemption to qualifying facilities from the Federal Power Act.

(a) *Applicability.* This section applies to qualifying facilities, other than those described in paragraph (b).

(b) *Exclusion.* This section does not apply to a qualifying small power production facility with a power production capacity which exceeds 30 megawatts, if such facility uses any primary energy source other than geothermal resources.

(c) *General rule.* Any qualifying facility described in paragraph (a) shall be exempt from all sections of the Federal Power Act, except:

- (1) Section 1-18, and 21-30;
- (2) Sections 202(c), 210, 211, and 212;
- (3) Sections 305(c); and

(4) Any necessary enforcement provision of Part III with regard to the sections listed in paragraphs (c)(1), (2) and (3) of this section.

4. Section 292.602 is amended by revising paragraph (b) to read as follows:

§ 292.602 Exemption to qualifying facilities from the Public Utility Holding Company Act and certain State law and regulation.

(b) *Exemption from the Public Utility Holding Company Act of 1935.* A qualifying facility described in paragraph (a) or a utility geothermal small power production facility shall not be considered to be an "electric utility company" as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(3).

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 655 and 656

Withdrawal of Regulations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of withdrawal of regulations.

SUMMARY: On February 4, 1981, pursuant to a memorandum from the President, the Department of Transportation postponed the effective dates of all Department of Transportation regulations covered by the President's directive. The Federal Highway Administration, having reviewed its regulatory actions so postponed, is by this notice, withdrawing two of those rules. The specific regulations covered by this notice are set forth below.

EFFECTIVE DATE: March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley H. Abramson, Deputy Assistant Chief Counsel for Legislation and Regulations, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday; telephone number (202) 426-0782.

SUPPLEMENTARY INFORMATION: On January 29, 1981, a memorandum was issued by the President which, among other things, directs executive agencies to postpone for 60 days the effective dates of regulations which had been issued but were scheduled to become effective during that 60-day period. The Department of Transportation on February 4, 1981, pursuant to the President's memorandum, postponed the effective dates of all Department of Transportation regulations covered by the President's directive until March 31, 1981.

The purpose of this postponement was to afford the government an opportunity to review each of these regulations. The FHWA has conducted such a review and has decided, among other things, to withdraw the following two regulations:

1. 23 CFR 655, Traffic Control Devices on Federal-Aid and Other Streets and Highways, published at 46 FR 2038, January 8, 1981; and
2. 23 CFR 656, Carpool and Vanpool Projects, published at 46 FR 2298, January 8, 1981.

The withdrawal of these particular regulations at this time will provide the FHWA with the opportunity to reassess these rules and their impacts, as well as the agency's overall implementation of these programs, in the light of Executive Order 12291, Federal Regulation, issued by the President on February 17, 1981.

By withdrawing these regulations, the FHWA continues in effect all current requirements and provisions of the Code of Federal Regulations which these rules would have amended had they become effective. The Carpool and Vanpool Projects program will continue to be administered consistent with the legislative changes made to the predecessor demonstration program by

section 126 of the Surface Transportation Assistance Act of 1978. The withdrawal of these regulations is without prejudice to such other action as the Administrator may take at a future time in this or any other rulemaking proceeding.

Inasmuch as both the rules subject to this withdrawal have already been the subject of public comment, additional notice and public procedure at this time is unnecessary. The FHWA's further review of these regulatory actions will include full consideration of the public comments received on each of these items. Also, as indicated in the Department's February 4 notice, the 60-day delay being a minimum period necessary to review the postponed rules, the FHWA believes that good cause exists for the immediate withdrawal of these two rules in order to afford the agency the opportunity to perform the comprehensive reassessment its review to date has indicated is necessary in these instances. Without an immediate withdrawal of these regulations they will go into effect upon expiration of the postponement on March 31.

Neither the rules as issued nor their withdrawal are major actions within the meaning of Executive Order 12291, nor are they significant within the meaning of the current DOT Order on Regulatory Policies and Procedures.

Accordingly, the following rules are hereby withdrawn:

1. 23 CFR 655, Traffic Control Devices on Federal-Aid and Other Streets and Highways, published at 46 FR 2038, January 8, 1981; and
2. 23 CFR 656, Carpool and Vanpool Projects, published at 46 FR 2298, January 8, 1981.

(Executive Order 12291; 23 U.S.C. 101(a), 109(d), 114(a), 146, 217, 315, 402(a); section 126 of the Surface Transportation Assistance Act of 1978 (Public Law 95-599, 92 Stat. 2689); 23 CFR 1204.4; and 49 CFR 1.48(b))

(The Catalog of Federal Domestic Assistance Program Number of both these programs is number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to these programs)

Issued on: March 24, 1981.

R. A. Barnhart,
Federal Highway Administrator.

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